

Senate File 368 - Introduced

SENATE FILE 368
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1141)

A BILL FOR

1 An Act relating to restrictions on lawful preexisting
2 nonconforming uses by cities and counties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 335.3, Code 2019, is amended to read as
2 follows:

3 **335.3 Powers.**

4 1. Subject to [section 335.2](#), the board of supervisors
5 may by ordinance regulate and restrict the height, number of
6 structures, and size of buildings and other structures, the
7 percentage of lot that may be occupied, the size of yards,
8 courts, and other open spaces, the density of population,
9 and the location and use of buildings, structures, and land
10 for trade, industry, residence, or other purposes, and may
11 regulate, restrict, and prohibit the use for residential
12 purposes of tents, trailers, and portable or potentially
13 portable structures. However, such powers shall be exercised
14 only with reference to land and structures located within the
15 county but lying outside of the corporate limits of any city.

16 2. a. The board of supervisors shall not adopt or enforce
17 any ordinance, regulation, or restriction that would prevent
18 the continuance of a property owner's lawful preexisting
19 nonconforming use unless any of the following apply:

20 (1) A discontinuance is necessary for the safety of life or
21 property.

22 (2) The nonconforming use is legally abandoned.

23 (3) The nonconforming use is enlarged or extended. For
24 purposes of this subparagraph, a nonconforming use is deemed
25 to have been enlarged or extended only when the overall nature
26 and character of the present use are substantially or entirely
27 different from the original lawful preexisting nonconforming
28 use.

29 b. When there is a replacement of a preexisting manufactured
30 or mobile home with another manufactured or mobile home
31 within a manufactured home community or mobile home park,
32 respectively, any lawful nonconforming use that existed
33 relating to the preexisting home shall not be deemed to have
34 been enlarged or extended except when the overall nature and
35 character of the present use are substantially or entirely

1 different from the original lawful preexisting nonconforming
2 use.

3 Sec. 2. Section 414.1, subsection 1, Code 2019, is amended
4 by adding the following new paragraph:

5 NEW PARAGRAPH. c. (1) A city shall not adopt or enforce
6 any ordinance, regulation, or restriction that would prevent
7 the continuance of a property owner's lawful preexisting
8 nonconforming use unless any of the following apply:

9 (a) A discontinuance is necessary for the safety of life or
10 property.

11 (b) The nonconforming use is legally abandoned.

(c) The nonconforming use is enlarged or extended. For purposes of this subparagraph division, a nonconforming use is deemed to have been enlarged or extended only when the overall nature and character of the present use are substantially or entirely different from the original lawful preexisting nonconforming use.

18 (2) When there is a replacement of a preexisting
19 manufactured or mobile home with another manufactured or mobile
20 home within a manufactured home community or mobile home
21 park, respectively, any lawful nonconforming use that existed
22 relating to the preexisting home shall not be deemed to have
23 been enlarged or extended except when the overall nature and
24 character of the present use are substantially or entirely
25 different from the original lawful preexisting nonconforming
26 use.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill affects the powers of cities and counties when
31 enforcing zoning ordinances. The bill prohibits a city or
32 county from adopting or enforcing an ordinance, regulation,
33 or restriction that would prevent a nonconforming use from
34 continuing if the use was legal before adoption of such
35 ordinance, regulation, or restriction unless a discontinuance

1 is necessary for the safety of life or property, the
2 nonconforming use is legally abandoned, or the nonconforming
3 use is enlarged or extended.